

EXHIBIT 40

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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MARK I. SOKOLOW, et al.,

PLAINTIFFS,

-against- Case No:
04CV397 (GBD) (RLE)

THE PALESTINE LIBERATION ORGANIZATION, et
al.,

DEFENDANTS.
-----X

DATE: December 12, 2012
TIME: 9:23 A.M.

DEPOSITION of LEONARD
MANDELKORN, taken by the Defendants,
pursuant to Notice and to the Federal Rules
of Civil Procedure, held at the offices of
Morrison & Foerster, 1290 Avenue of the
Americas, New York, New York 10104, before
Robert X. Shaw, CSR, a Notary Public of the
State of New York.

1 Leonard Mandelkorn

2 Q. When did you become an Israeli
3 citizen?

4 A. 1967.

5 Q. And I understand you currently
6 reside in Israel; is that correct?

7 A. Yes.

8 Q. What is your address there?

9 A. It's the village of Shiloh.
10 And post box 9408. And the ZIP code 44830.

11 Q. And where is the village of
12 Shiloh located?

13 A. The village of Shiloh is
14 located about 30 kilometers north of
15 Jerusalem, on the border of Judea and
16 Samaria.

17 Q. Would it be accurate to say
18 that the village of Shiloh was located in
19 the territory that was occupied by Israel
20 in 1967?

21 MR. SOLOMON: Objection to
22 form.

23 Go ahead.

24 A. The village of Shiloh is in the
25 freed settlement area of the Jewish

1 Leonard Mandelkorn

2 biblical home.

3 Q. Okay. And that territory was
4 first occupied by Israel in 1967; is that
5 correct?

6 MR. SOLOMON: Objection to
7 form.

8 Go ahead.

9 A. The territory was freed by
10 Israel in 1967; right.

11 Q. Okay. And so, the area that
12 you currently live in was not part of the
13 1948 borders of Israel; is that accurate?

14 MR. SOLOMON: Same objection.

15 A. That is true.

16 Q. Okay. And the area that you
17 reside in is referred to some people -- ah,
18 referred to by some people as "the West
19 Bank"; is that fair to say?

20 A. It is the West Bank referred in
21 the scriptures as the West Bank.

22 Q. But some people to refer to the
23 area where you reside as the West Bank; is
24 that correct?

25 A. It is called West Bank in the

1 Leonard Mandelkorn

2 scriptures and by everybody.

3 Q. And is it fair to say that the
4 town in which you live is also described by
5 some people as a settlement?

6 MR. SOLOMON: Objection.

7 A. A settlement is a village, yes.

8 We have a lot of settlements
9 all over. In 1948 borders we also have
10 settlements, yes.

11 Q. Okay. And the particular
12 settlement you live in, Shiloh, is outside
13 of the '48 borders; correct?

14 A. Correct.

15 Q. Okay.

16 MR. SOLOMON: I want you to
17 pause if I have anything -- you know,
18 if I just say "objection," you can
19 answer; but if I want you to pause,
20 I'll just go like this, or something,
21 to indicate I have something more to
22 say. Okay?

23 Q. Let's just go over a few ground
24 rules here today.

25 Have you ever been deposed

1 Leonard Mandelkorn

2 you please let us know?

3 A. It's okay. Thank you.

4 Q. Okay. And if you don't, is it
5 fair for us to assume that you understand
6 and are comfortable answering in English.

7 A. Yes.

8 Q. Okay. English is your, the
9 language you learned as a child; correct?

10 A. Right. Right.

11 Q. Is there any reason you can't
12 give complete and truthful testimony here
13 today?

14 A. No.

15 Q. Okay. During the course of the
16 day, I may ask a question that you don't
17 understand, regardless of whether it's a
18 language issue. If that happens, please
19 just let me know and I'll try and rephrase
20 it; is that agreeable?

21 A. Okay. Thank you.

22 Q. How long have you lived in the
23 village of Shiloh?

24 A. 20 years.

25 Q. Okay. So, when did you first

1 Leonard Mandelkorn

2 through, and to give a recommendation to
3 the National Insurance Company about what
4 treatment, that he needed mental treatment.

5 Q. Okay. How many occasions did
6 your son meet with Devorah Wartman, that
7 you're aware of?

8 A. I think, twice. I think,
9 twice.

10 Q. And were those meetings in
11 Jerusalem?

12 A. Yes.

13 Q. Okay. And then, how about
14 Dr. Peri, how many occasions did your son
15 meet with Dr. Peri?

16 A. At least six.

17 Q. Six times?

18 A. Yes.

19 Q. And where did those meetings
20 take place?

21 A. They took place -- I'm not sure
22 if it was in Jerusalem, or if it was in his
23 home in Ephrata. I'm not sure.

24 Q. I should have asked you that
25 before. At the time your son was injured

1 Leonard Mandelkorn

2 in 2002, was he still living at home with
3 your and Shiloh?

4 A. Yes. He was in a dorm then.
5 He was in a dorm -- a high school dorm.

6 Q. A high school dorm?

7 A. Right.

8 Q. And so, this was a -- where was
9 the high school located that he was
10 located?

11 A. Sha'alvim, which I mentioned
12 before.

13 Q. Okay. And where is Sha'alvim
14 located in Israel?

15 A. It's near, between Ramallah and
16 Jerusalem.

17 Q. Okay. And is it in part of the
18 territory that was occupied in 1967?

19 A. It's not part of the territory
20 that was freed in '66.

21 Q. It was part of the territory
22 that was part of the '48 borders?

23 A. Right.

24 Q. Okay. And so, he was living in
25 the dormitory at the school at that time?

1 Leonard Mandelkorn

2 A. Yes.

3 Q. Okay. And after he was
4 injured, where did he live?

5 A. After he was injured, he was at
6 home. And when he was able to, he went
7 back to a yeshiva, where he learned.

8 Q. Okay. And where was the
9 yeshiva that he attended?

10 A. The yeshiva was in Jerusalem.

11 Q. In Jerusalem. And was he a
12 resident there in Jerusalem at that
13 yeshiva?

14 A. He was, his ID card didn't say
15 Jerusalem, until he got married it didn't
16 say Jerusalem.

17 Q. Okay. So, for a period of time
18 after the injury, he lived at home with
19 you, and then he moved in at the yeshiva in
20 Jerusalem; correct?

21 A. Right.

22 Q. Do you remember approximately
23 the date when he moved out of the house and
24 to the yeshiva in Jerusalem?

25 A. I can't tell you exactly.

1 Leonard Mandelkorn
2 children, other than Shaul, declined to
3 serve in the Army?

4 A. I don't have that much
5 possibilities. Like, my oldest went to the
6 Army. He's a career officer. My second is
7 Shaul. My third son passed away.

8 My two daughters, they don't go
9 to the Army. My youngest son is 17, he's
10 not -- he will go to the Army. He plans to
11 go.

12 Q. All right. And you mentioned
13 that your daughters did not serve. Was
14 that on religious grounds?

15 A. On religious grounds.

16 Q. Okay. Let's go back to the day
17 that he was injured. You were not present
18 at the time of his injury; correct?

19 A. Correct.

20 Q. Okay. Was anyone else in your
21 family present?

22 A. Present? No.

23 Q. Okay. Do you know the names of
24 anyone who witnessed the attack, other than
25 your son?

1 Leonard Mandelkorn

2 guitar today?

3 A. He's able, but he doesn't play.

4 Q. He just doesn't play as much as
5 he used to?

6 A. Yes. Right.

7 Q. Do you know if your son was
8 able to see the person, or persons, who
9 detonated the bomb that injured him?

10 A. I assume that he didn't.

11 Q. Okay. He has never told you
12 that he saw who set it off?

13 A. No.

14 Q. Are you aware of any evidence
15 of who set off the bomb that day?

16 A. Yes. I have a son in the
17 military. He gave me information that the
18 name is Hamad Awad. I have his picture on
19 the Internet.

20 The responsibility was taken by
21 the Martyrs, the Al Aksa Martyrs, which is
22 related to Fatah, which is part of the PLO
23 and PA.

24 Q. So, you mentioned your son in
25 the military gave you some information.

1 Leonard Mandelkorn

2 Which son was that?

3 A. That's my oldest son.

4 Q. Okay. And that's Yisrael?

5 A. Yes.

6 Q. And how did he get that
7 information?

8 A. I don't know.

9 Q. Did he tell you where he got
10 that information?

11 A. No.

12 Q. Do you know if he got it from a
13 source other than the newspaper or
14 television?

15 A. I assume that he had access to
16 more sources.

17 Q. Why do you assume that?

18 A. He's in a very important place
19 in the military.

20 Q. What place did he hold at the
21 time he told you this?

22 A. He was, he was an officer in a
23 platoon called *duvdevan*, which is a cherry.

24 THE INTERPRETER: What it
25 means.

1 Leonard Mandelkorn

2 Q. Okay. The Hebrew word *duvdevan*
3 means "cherry"?

4 A. Cherry, yes.

5 Q. Okay. And so, what does the
6 *duvdevan* platoon do?

7 A. The *duvdevan* is a, works to
8 capturing wanted terrorists.

9 Q. Okay. So, this is a
10 counter-terrorism operation?

11 A. Yes.

12 Q. Okay. And he was involved in
13 that in 2002?

14 A. Yes. In -- no, no, wait a
15 minute. Not 2002. Where was he in 2002?
16 He may not have been in *duvdevan* yet in
17 2002.

18 Q. Okay. So, he joined the
19 *duvdevan* after the attack?

20 A. I think so.

21 Q. Okay. When did he give you
22 the information that you described about
23 the identity of the person involved in
24 setting off the bomb?

25 A. This week.

1 Leonard Mandelkorn

2 Q. This week?

3 A. Yes.

4 Q. Okay. You spoke to him about
5 this on what day?

6 A. I spoke to him, I think, I
7 think it was last Thursday, something like
8 that.

9 Q. Okay. So, all the information
10 you described to me earlier is information
11 you learned for the first time last
12 Thursday?

13 A. No. This is information I had
14 before, but I just didn't feel it related
15 to it, and I wanted him to resend me a mail
16 a long time ago with this information.

17 Q. Okay.

18 A. But I didn't really pick it up
19 in my mind. And now, since we're doing the
20 deposition, I figured I should know more
21 exact.

22 Q. Okay. So, you're saying, are
23 you saying your son, Yisrael, sent you an
24 e-mail with this information?

25 A. Yes.

1 Leonard Mandelkorn

2 Q. When was that e-mail sent?

3 A. Well, he sent me last Thursday
4 again, and he sent it a number of years
5 ago, I don't remember exactly when.

6 MR. SOLOMON: Okay. Let's take
7 a break. I'm just anticipating a
8 document request. Maybe we can try
9 and get that e-mail?

10 MR. HILL: Well, I don't think
11 we need to take a break, but I would
12 like to get it; it's obviously
13 responsive to our discovery request.
14 So.

15 MR. SOLOMON: Why don't we do
16 it now.

17 Off the record.

18 (Whereupon, an off-the-record
19 discussion was held.)

20 MR. HILL: Back on the record.

21 Q. Rabbi Mandelkorn, before we
22 broke we were talking about some
23 information that you had received from your
24 son, Yisrael, about the identity of the
25 person that may have injured your son

1 Leonard Mandelkorn

2 Shaul. Prior to the e-mail exchange you
3 had with your son Yisrael last week, when
4 was the -- you mentioned that there were
5 two e-mails from your Yisrael; correct?

6 A. Yes.

7 Q. Okay. When was the first one?

8 A. In June, I think.

9 Q. June of what year?

10 A. It seemed to be June of this
11 year, but --

12 MR. SOLOMON: By counsel, we
13 just photocopied them. They're
14 exchanging both e-mails. So.

15 Q. Okay. So, you believe that
16 your son Yisrael e-mailed you about the
17 identity of the attacker in June of this
18 year, and then again last week; correct?

19 A. Yes.

20 Q. Okay. Have you spoken to him
21 about that issue?

22 A. I spoke with him. He sent me
23 the e-mail.

24 Q. Okay. Did you talk with him
25 about the substance of the information of

1 Leonard Mandelkorn

2 the e-mail?

3 A. No.

4 Q. So, he sent you an e-mail in
5 June, and then you called him last week and
6 said would you send that e-mail to me
7 again; is that it?

8 A. Yes.

9 Q. Okay. Have you had any
10 substantive conversations with your son
11 Yisrael about the identity of the attacker?

12 A. No.

13 Q. Okay. All right. Prior to
14 June of this year, when you got the e-mail
15 from your son --

16 A. I'm not sure if it's June of
17 this year. I think it's June of this year.

18 Q. Okay. Well, assuming that
19 that's the right, we'll correct it as soon
20 as the document gets copied, if we need to.

21 Prior to the receipt of the
22 first e-mail from your son Yisrael, prior
23 to that, had you ever had any information
24 about the identity of the attacker?

25 A. No.

1 Leonard Mandelkorn

2 Q. Okay. Apart from the e-mails
3 with your son Yisrael, are you aware of any
4 other evidence of the identity of the
5 attacker on your son Shaul?

6 A. No.

7 Q. Okay. Have you spoken with
8 anyone, other than your son Yisrael from
9 the Israeli government, about who injured
10 your son Shaul?

11 A. No.

12 Q. Have you ever been contacted by
13 Israeli police, or anything like that?

14 A. No.

15 Q. Okay. Has your son Shaul ever
16 spoken with anyone in the Israeli
17 government about who caused his injuries?

18 A. No.

19 Q. Have you spoken to anyone from
20 the Al Aksa Martyrs Brigade about whether
21 they were responsible for the attack on
22 your son?

23 A. No.

24 Q. Okay. The answers may be
25 obvious, I just need to ask them for the

1 Leonard Mandelkorn

2 record.

3 Have you spoken to anyone from
4 Fatah about whether they had any connection
5 with the injury of your son?

6 A. No.

7 Q. Have you had spoken with anyone
8 from the PLO about whether it had any
9 connection with the injury to your son?

10 A. No.

11 Q. Okay. Have you spoken to
12 anyone from the Palestinian Authority about
13 whether it had any connection with the
14 injury to your son?

15 A. No.

16 Q. Have you spoken to anyone else,
17 other than your son Yisrael, about who may
18 have been responsible for injuring your son
19 Shaul?

20 A. No.

21 Q. Do you know if anyone in your
22 family has spoken to anyone else --

23 A. I don't think so.

24 Q. Okay. -- about that issue?

25 A. No.

1 Leonard Mandelkorn

2 Q. And do you know who the
3 Plaintiffs are from your family in this
4 lawsuit?

5 A. Yes.

6 Q. Who are they?

7 A. Me, my wife and my son.

8 Q. So, why are your wife and son
9 Plaintiffs in this lawsuit, but not in the
10 lawsuit against the Arab Bank?

11 A. I don't know.

12 Q. Okay. Are you aware of any
13 evidence that the PA had anything to do
14 with the injury in which your son, with the
15 bombing in which your son was injured?

16 A. I have no evidence at all of
17 anything.

18 Q. Are you aware of any evidence
19 that the PLO had anything to do with --

20 A. I have no evidence.

21 Q. Okay. Just let me finish the
22 question for the record. I know where
23 we're going.

24 Are you aware of any evidence
25 that the PLO had anything to do with your

1 Leonard Mandelkorn

2 son's injuries?

3 A. I have no evidence.

4 Q. Okay. Well, why did you sue
5 the PA?

6 A. I relied on my lawyers.

7 Q. Okay. Did your lawyers tell
8 you something that made you think that it
9 was appropriate to sue the PA?

10 DI MR. SOLOMON: Objection. Don't
11 answer that.

12 A. I rely on my lawyers.

13 MR. SOLOMON: Don't answer that
14 question.

15 MR. HILL: What's the basis for
16 the instruction?

17 MR. SOLOMON: Work product.
18 And privilege, amongst other things.
19 If you want to get the Magistrate
20 before the lunch hour, you can deal
21 with that.

22 MR. HILL: Okay.

23 Q. Who decided to sue the PA?

24 A. I don't know who exactly
25 decided.